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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,154	03/30/2001	Robert A. Immerman	IN0191US (#90067)	6306

28672 7590 03/18/2003

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1940 EAST 6TH STREET
CLEVELAND, OH 44114

EXAMINER

WEINHOLD, INGRID M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/822,154

Applicant(s)

IMMERMAN, ROBERT A.

Examiner

Ingrid M Weinhold

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

FINAL ACTION

Claim Rejections - 35 USC § 102

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Metcalf (4,060,214). Metcalf shows an assembly comprising a fixture (20) and a device (12) comprising a first pair of generally parallel rigid wires traverse to a second pair of generally parallel rigid wires which are co-planar with the first pair of wires, defining a generally rectangular opening and at least two fastener arrangements (where rectangle "12" is connected to the two vertical portions of the fixture "20") for fastening the device to the fixture.

Claim Rejections - 35 USC § 103

Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raphael (Des. 194,307). See attached drawing for details. Raphael shows an assembly comprising a fixture and a device comprising a first pair of generally parallel rigid wires traverse to a second pair of generally parallel rigid wires, which are co-planar with the first pair of wires, defining an opening and at least two fastener arrangements for fastening the device to the fixture. The suction cups shown have compressible heads attached to a neck with the neck attached to an engagement member. The heads are shown to be insertable into the openings made by the wires. The device can be interpreted as "generally rectangular" and it would be obvious to make it rectangular with the wires all being straight and 90 degrees to each other as most of the angles in the rest of the fixture are 90 degree angles and since it would not change the utility of

the invention. The suction cups can be inserted into any of the openings including the opening created by the device. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device rectangular since the opening created when the device is attached to the fixture is rectangular and it would also be obvious to place another suction cup into that opening for added stability.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metcalf (4,060,214). Metcalf shows all features claimed by the applicant's invention including that the fixture and device are made out of metal. The further limitation of the device being fastened to the fixture by welding, brazing, soldering or by using adhesive is a design choice and the applicant did not disclose any reason for why the device and fixture critically had to be fastened with one of those techniques. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have chosen to use well-known techniques such as welding, brazing, soldering or by using adhesive in order to securely fix the device to the fixture.

Claims 2-5 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raphael (Des. 194,307) in view of Macek (5,620,105). Raphael shows all features claimed by the applicant's invention but does not however show that the fixture and device are made out of metal since it is a design patent. Macek however shows another caddy and discloses that it is made of metal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have

made the caddy shown in Raphael out of metal for durability purposes. The further limitation of the device being fastened to the fixture by welding, brazing, soldering or by using adhesive is a design choice and the applicant did not disclose any reason for why the device and fixture critically had to be fastened with one of those techniques.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have chosen to use well-known techniques such as welding, brazing, soldering or by using adhesive in order to securely fix the device to the fixture.

Response to Arguments

The arguments made by the applicant are moot since new rejections have been made that were necessitated by the applicant's amendment.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3632

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ingrid Weinhold whose telephone number is (703)-306-5762.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-3686 for informal documents, (703) 872-9326 for formal regular communication and (703) 872-9327 for After Final Communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Ingrid Weinhold
Patent Examiner
Technology Center 3600
Art Unit 3632



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER

United States Patent Office

Des. 194,307
Patented Jan. 1, 1963

194,307

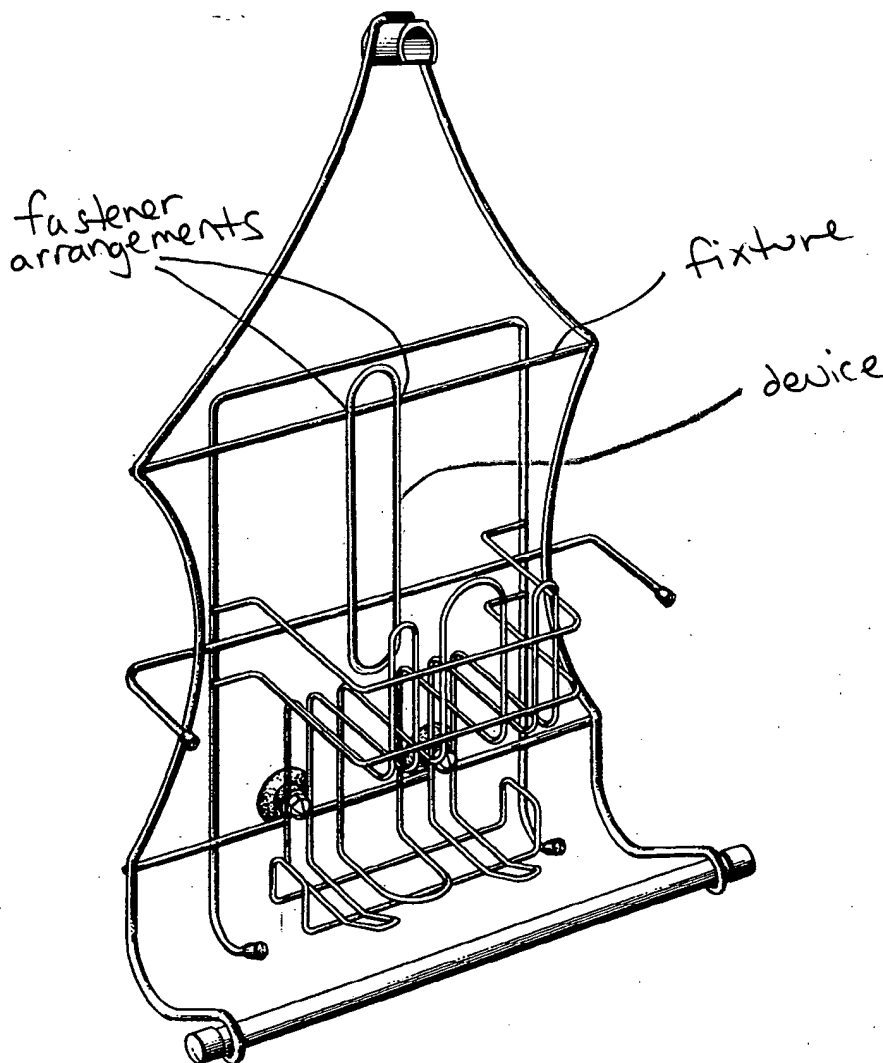
HOLDER FOR BATH ARTICLES FOR USE WITH SHOWERS

Julius Raphael, 720 Devirian Place, Alhambra, Calif.

Filed May 21, 1962, Ser. No. 70,222

Term of patent 14 years

(Cl. D4-3)



The figure is a front perspective view of a holder for bath articles for use with showers showing my new design.

I claim:

The ornamental design for a holder for bath articles for use with showers as shown.

References Cited in the file of this patent

UNITED STATES PATENTS

1,315,823 Dugan ----- Sept. 9, 1919

OTHER REFERENCES

Mott's Plumbing Cat. A, rec'd March 8, 1948, page 155,
Item Plate 3505-A.